

DOMESTIC RELATIONS COMMITTEE

Meeting Minutes – July 16, 2004

PRESENT:

-
-

CO-CHAIRS:

Hon. Mark Anderson, Co-Chair
Hon. Karen Johnson, Co-Chair

MEMBERS:

- Hon. Karen Adam
- Hon. David Bradley
- Hon. Bill Brotherton
- Jodi Brown
- Sidney Buckman
- Kat Cooper
- William Fabricius
- Hon. Beverly Frame
- Nancy Gray
- Bill Hart
- Terrill J. Haugen
- Karen Kretschman
- Ella Maley
- Hon. Dale Nielson
- David Norton
- Ellen Seaborne
- Kelly Spence
- Judy Walruff
- Steve Wolfson
- Debbora Woods-Schmitt
- Brian Yee
- Jeff Zimmerman

GUESTS:

Donna Lee Sarda, LPC

Justice for Children - AZ

STAFF:

Isabel Gillett
Barbara Guenther
Megan Hunter
Javan Mesnard
Patsy Osmon
Helena Whitney

Administrative Office of the Courts
Senate
Administrative Office of the Courts
Senate
Senate
House of Representatives

Representative Johnson called the meeting to order at 10:28 a.m. without a quorum present.

APPROVAL OF MINUTES

Due to the lack of a quorum, approval of the minutes was postponed until a quorum could be reached.

ANNOUNCEMENTS

Jodi Brown of Prescott was introduced as the new appointment to the Domestic Relations Mediator position replacing Jennifer Jordan. Ms. Brown is a domestic relations mediator for the Yavapai County Superior Court and is a founding board member and mediator with the Mediation Center of Yavapai County.

Three positions remain vacant: 1) custodial parent, 2) faith-based representative, and 3) marriage and family therapist.

WORKGROUPS

Creditor Issues – Ellen Seaborne, Chair

Ellen described the types of creditor situations that arise in dissolutions cases. Two examples: 1) during the marriage, one spouse acquires separate credit without notifying the other spouse (typically credit card debt). Usually the judge assigns the debt to the spouse who acquired the debt, but the problem comes in when that spouse fails to make payments and the creditors come after the other spouse for payment; and 2) credit that is obtained before a marriage becomes a community debt after the marriage. Many times one spouse does not know about the debt nor benefit from the debt. Because it is part of community property, the court orders both to repay the debt.

Rep. Johnson asked Megan to invite representatives from the banking industry to speak at the August meeting.

Judy Walruff recommended initiating a conversation with creditor institutions to ascertain what they may have to offer in lieu of having some other solutions imposed upon them. Dave Norton suggested the possibility of utilizing a remedy that is used in bankruptcy. Creditors are identified and notified of the bankruptcy, then given an opportunity to submit a claim. Perhaps something similar could be done in dissolution cases.

Rep. John called for volunteers for the now formed Creditor Issues Workgroup and appointed Ellen Seaborne to serve as chair. Volunteers are: Karen Kretschman, Judy Walruff, Dave Norton, and Rep. Johnson. Megan will notify absent members of the new workgroup and will call for volunteers.

Custody Re-Write – Steve Wolfson, Chair

Megan reported on behalf of Steve that the first meeting will be held on August 6.

Custody Evaluator Minimum Standards – Rep. Bradley & Nancy Gray, Co-Chairs

The first meeting will be held on July 29th, 10:00 – 2:00 at the Arizona State Courts Building. They want to get to the meat of the issue and basically try to comply with the law as quickly as they can, hopefully in the space of one meeting. David Bern of DES will be speaking to the group about the co-occurrence of domestic violence and child abuse. Nancy encouraged members of DRC to submit any thoughts or ideas to the co-chairs. Nancy suggested looking at the Supreme Court's Minimum Standards for Parent Education as a starting point for construction of the standards.

Substantive Law – Jeff Zimmerman, Chair

Bill Hart & Sid Buckman indicated that the group has not met for two or three months. Jeff Zimmerman, chair, is absent today.

Court Procedures – Brian Yee, Chair

Nancy Gray reported on behalf of Brian. She reported that workgroup members took on several assignments at the last DRC meeting. Dave Norton will be speaking to the Trial Court Commission at their annual fall meeting (yet to be scheduled – Megan will notify Dave when the date is announced). Steve Wolfson will be speaking to the Board of Governors of the Arizona State Bar.

Education/Prevention – Terrill Haugen, Chair

Megan reported on behalf of Terrill that the Children's Education team was notified of the discussion from the June meeting in which Commissioner Adam indicated Pima County's desire to be considered for a pilot project. Team members are amenable to including Pima County. Nancy commented that a rural county should be included as well and offered Yuma County as a host. Ellen Seaborne would like Coconino County to be considered and Jodi Brown would like Yavapai County to be considered. Cost is a factor, but the project could be expanded to these counties if funding can be obtained.

Senator Anderson noted that the Marriage & Communication Skills Commission is completing their mission due to depletion of funding. However, Dr. Peck of Arizona State University has been commissioned to study the effects of the marriage programs. Sen. Anderson noted that the study will be out this month and suggested we have Dr. Peck provide a report at a future meeting.

ARIZONA COALITION AGAINST DOMESTIC VIOLENCE

Bill Hart briefly stated that the Coalition had two concerns about Diana Hegyi's presentation at the June meeting: 1) the agenda as presented to the Committee did not accurately reflect the presentation's comments, and 2) they were disappointed that actual case numbers were part of a PowerPoint presentation and put up on a screen in a very public meeting. The Coalition's main focus is to proceed toward the July 29th Custody Evaluator Minimum Standards meeting.

Bill explained that Diana's presentation resulted from letter written in 2002. The Coalition does not want to get into re-hashing the past. They do not want to make a big deal about this and just want to move on.

Sid Buckman expressed concerns about the accuracy of information presented by any entity or individual to this Committee. Bill responded that he shares Sid's concerns and feelings about that but the Coalition decided to just put it behind them and move on. They are not disputing what Diana Hegyi said in her report.

Karen Kretschman commented that whenever anyone wants a bill passed in the Legislature, the first question should be identifying the problem and what is the background information such as statistics. As a Committee, we should be asking about statistics and the quality of those statistics. That is why she gave a presentation last month regarding what stats are available through the courts. For operating in the future, she suggested that this whole episode of presentations goes to the issue of backing up what you are talking about.

Nancy Gray explained that she supports Karen's viewpoints. The good thing that has come out of this is that we are more aware of keeping better stats on domestic violence. She cautioned that we need to be careful about the stats provided to this Committee.

Rep. Johnson noted that we all agree on the problems associated with domestic violence and we all need to work harder on the right way to address these stats. She explained that this is not an indictment of Bill or anything he has done.

Brian Yee remarked that this Committee can take note of the number of filings for Orders of Protection, Injunctions Against Harassment, etc., but it really does not go the problem of domestic violence. Knowing the number of filings does not give us a clear picture of what is going on in domestic violence. The problem is getting good statistics before the Legislature. Sometimes stats can be misrepresented to the Legislature. The motive of having Diana's study here was for the purpose of understanding the statistics of what is being quoted. To remind the Committee, there were three condemning letters written by the Coalition – one to judges, one to the conciliation court and one to custody evaluators. Upon investigation, every statistic, outcomes and interpretation was wrong according to court evidence. The purpose is not to indict the Coalition today; the purpose is to help everyone understand the reality behind the statistics.

Sen. Anderson explained that legislators receive a lot of information from many sources so they try to remain aware of the ability of people to make statistics say what they want.

CALL TO THE PUBLIC

No requests were received for the Call to the Public.

The co-chairs asked Committee staff and Committee members to introduce themselves to new member Jodi Brown.

Megan Hunter – Administrative Office of the Courts staff

Isabel Gillett – support staff from the Administrative Office of the Courts

Helena Whitney – Democratic Staff in the House and works with Rep. Bradley

Javan Mesnard – Republican Senate Staff and works with Sen. Anderson and Sen. Bee

Patsy Osmon – Senate Democratic staff and works with Sen. Brotherton

Barbara Guenther – Senate research non-partisan staff

Marianne Yamnik (absent) – House staff

BREAK/LUNCH

The Committee dismissed for lunch at 11:45 a.m. The meeting reconvened at 12:20 p.m.

INTEGRATED FAMILY COURT

Karen Kretschman reported that the pilot projects still do not have funding. She has made a request through the Administrative Office of the Courts (AOC) process for fiscal year 2006 asking for start-up funding for the pilots. She has no assurance that the AOC proposal will be considered and encouraged the Committee to look at the best way to get funding to the projects. Her request includes \$400,000 for Coconino, \$250,000 for Pinal and \$100,000 for Maricopa.

Ellen suggested that we go with original plan and ask for funding from the Legislature. Members thought this had been impossible in the past because of a referendum issue. Barbara Guenther explained that because fees would have to be raised for this, the House and Senate would each have to have a two-thirds vote to get this passed. Ellen commented that the state was in a drastic downsizing in the state budget at the time. She suggested a second option which would request funding for the pilot projects only, instead of the statewide project.

Rep. Johnson noted that we will need some persuasive evidence if we are going to ask the Legislature for funding. Ellen responded that no data has been gleaned from this state so far. Rep. Johnson suggested that in the scheme of funding in the Legislature, there could be a way to convince them to invest this amount of money for a very accountable pilot program as long as a data program was built in. Judy Walruff suggested that we could also let legislators know how far we have come with the IFC proposal and that mechanisms are in place or could be put into place. Karen Kretschman envisions adding the funding amounts to the AOC Domestic Relations budget, then the projects would be funded from that budget. The Supreme Court authorized the projects through an administrative order.

Rep. Johnson has wanted to see this for many years and is committed to work hard on the proposal. She encouraged Committee members to contact their legislators. We may not need to run a bill; instead it could be put in the general budget bill.

CALL TO THE PUBLIC

No requests were received for the Call to the Public.

NEXT MEETING

The next meeting will be held on August 20, 2004, 10:00 am – 2:00 pm at the Arizona State Courts Building, 1501 W. Washington, Phoenix.

ADJOURNMENT

The meeting was adjourned at 12:35 p.m.